IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4451 OF 2005

Mrs Surekha Arun Tapase, .. Applicant
Vs
1. Shantappa Gurappa Ratalkar,
and ors. .. Respondents

Mr Surel S. Shah, for the applicant.
Mr A.S.Shitole, APP for the respondents.

CORAM : D.B.BHOSALE, J.

DATED : 20th JUNE, 2006

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the respondents.

2. This is an application under section 378(4) of the Code of Criminal Procedure seeking leave to appeal against the judgment and order of acquittal dated 11.5.2005. By that judment, the accused have been acquitted of the offences punishable under sections 324, 323, 504 r/w 34 and 506 (2) of IPC. The alleged incident occurred on 27.4.2002 in the courtyard of the complainant PW1-Surekha. It is alleged that all the five accused assaulted the complainant and others in which the complainant lost her tooth. The learned trial Court, on appreciation of the evidence of PWs 1 to 4, has held that the offence against the accused has not been proved beyond reasonable doubt. There is variance in the testimonies of PWs 1 and 2. PW 2, who

is the daughter of PW 1, does not support the testimony of PW 1, who states that she was assaulted on her mouth and as a result thereof she lost her tooth. The incident was allegedly witnessed by several persons staying in the vicinity, however, none of them has been examined by the prosecution to support the version of the complainant and her two children, PWs.2 and 3. Moreover, the doctor, who examined the complainant within 2-3 hours after the alleged incident, has stated that there is every possibility that the tooth had not fallen prior to 2-3 days before her examination. It appears that the accused and the complainant were on inimical terms and a civil suit filed by the complainant-husband against the accused was pending. Considering the reasons recorded by the trial court on appreciation of the evidence on record, the impugned judgment cannot be said to be unreasonable and perverse. The view taken by the trial Court is reasonably possible view. Merely because different views on the basis of the evidence on record is possible, that by itself can not a ground to interfere in the order of acquittal. In the circumstances, the application seeking leave to appeal is rejected.

. Consequently, the appeal also stands disposed of.

(D.B.BHOSALE,J.)